

ARNOLDO CASILLAS, ESQ., SBN 158519  
DENISSE O. GASTÉLUM, ESQ., SBN 282771  
**CASILLAS, MORENO & ASSOCIATES**  
3500 W. Beverly Blvd.  
Montebello, CA 90640  
Telephone: (323) 725-0917  
Facsimile: (323) 725-0350  
Email: acasillas@morenolawoffices.com  
dgastelum@morenolawoffices.com

Attorneys for Plaintiffs, ESTATE OF GLENN SWINDELL,  
G.S., M.S., J.S., DEBORAH BELKA and TYLER SWINDELL

JONATHAN D. MELROD, ESQ., SBN 136441  
1313 Scheibel Ln.  
Sebastopol, CA 95472  
Telephone: (415) 806-0154  
E/Mail: jonathan4536@sbcglobal.net

Attorney for Plaintiff, SARAH SWINDELL

**UNITED STATE DISTRICT COURT**  
**NOTHERN DISTRICT OF CALIFORNIA**

ESTATE OF GLENN SWINDELL, by ) CASE NO.  
and through successors in interest; )

SARAH SWINDELL, individually and )

as successor in interest; G.S., a minor, ) **COMPLAINT FOR DAMAGES**

individually and as successor in )

interest, by and through Sarah Swindell ) 1. Unreasonable Search and Seizure

as Guardian ad Litem; M.S., a minor, ) (42 U.S.C. § 1983)

individually and as successor in ) 2. Substantive Due Process Violation

interest, by and through Sarah ) (42 U.S.C. § 1983)

Swindell, as Guardian ad Litem, J.S., a ) 3. Freedom of Speech and Expression

minor, individually and as successor in ) Violation (42 U.S.C. § 1983)

interest, by and through Deann ) 4. Right to Keep and Bear Arms Violation

Macias, as Guardian ad Litem; ) (42 U.S.C. § 1983)

DEBORAH BELKA, individually and ) 5. Municipal Liability for Unconstitutional

as successor in interest and ) Customs and Practices (42 U.S.C. §

) 1983)

1	TYLER SWINDELL, individually and )	6. Substantive Due Process Violation
2	as successor in interest, )	(42 U.S.C. § 1983)
3	Plaintiffs, )	7. Unreasonable Search and Seizure
4	vs. )	(42 U.S.C. § 1983)
5	COUNTY OF SONOMA, DOES 1 )	
6	through 10, inclusive, )	
7	Defendants. )	
8		

### **COMPLAINT FOR DAMAGES**

COME NOW Plaintiffs ESTATE OF GLENN SWINDELL, by and through successors in interest; SARAH SWINDELL, individually and as successor in interest; G.S., a minor, individually and as successor in interest, by and through Sarah Swindell as Guardian ad Litem; M.S., a minor, individually and as successor in interest, by and through Sarah Swindell, as Guardian ad Litem; J.S., a minor, individually and as successor in interest, by and through Deann Macias, as Guardian ad Litem, DEBORAH BELKA, individually and as successor in interest and TYLER SWINDELL, individually and as successor in interest,(hereinafter collectively “Plaintiffs”) and allege as follows:

#### **INTRODUCTION**

1. This civil rights action seeks to establish the violations of fundamental civil rights under the United States Constitution in connection with the death of Glenn Swindell on May 17, 2014.

2. Glenn Swindell was a 39-year-old loving husband and father who wanted nothing more in the world than to take care of his family. His death has been a profound and unimaginable loss to his wife, children and mother, the present Plaintiffs.



1           6.     Plaintiff SARAH SWINDELL (hereinafter “Sarah”) is and was, at all  
2 times relevant hereto, a resident of the County of Sonoma, and is the wife of decedent  
3 Glenn Swindell.

4           7.     Plaintiff G.S. is a minor, and is and was, at all times relevant hereto, a  
5 resident of the County of Sonoma, and was the natural daughter of decedent Glenn  
6 Swindell.

7           8.     Plaintiff M.S. is a minor, and is and was, at all times relevant hereto, a  
8 resident of the County of Sonoma, and was the natural son of decedent Glenn  
9 Swindell.

10          9.     Plaintiff J.S. is a minor, and is and was, at all times relevant hereto, a  
11 resident of the County of Sonoma, and was the natural son of decedent Glenn  
12 Swindell.

13          10.    Plaintiff TYLER SWINDELL is and was, at all times relevant hereto, a  
14 resident of the County of Sonoma, and was the natural son of decedent Glenn  
15 Swindell.

16          11.    Plaintiff DEBORAH BELKA is and was the natural mother of decedent  
17 Glenn Swindell.

18          12.    Defendant COUNTY OF SONOMA (hereafter “COUNTY”), is and  
19 was, at all times mentioned herein, a public entity, duly organized and existing under  
20 and by virtue of the laws of the state of California, with the capacity to sue and be  
21 sued. Defendant COUNTY is responsible for the actions, omissions, policies,  
22 procedures, practices and customs of its various agents and agencies. At all times  
23 relevant to the facts alleged herein, Defendant COUNTY was responsible for  
24 assuring that the actions, omissions, policies, procedures, practices and customs of its  
25 employees complied with the laws and the Constitutions of the United States and of  
26 the State of California.

1           13. The Sonoma County Sheriff's Office (hereinafter "Sheriff's Office") is a  
2 subdivision of Defendant COUNTY OF SONOMA.

3           14. At all relevant times, each of DOES 1 through 10 were employees of the  
4 Sheriff's Office. At all times relevant herein, each of DOES 1 through 10 was an  
5 employee and/or agent of Defendant COUNTY and he or she acted under color of  
6 law, to wit, under the color of the statutes, ordinances, regulations, policies, customs,  
7 and usages of Defendant COUNTY and the Sheriff's Office, as well as under the  
8 color of the statutes and regulations of the State of California.

9           15. At all relevant times, each of the Defendants DOES 1 through 10 was  
10 acting within his or her capacity as an employee, agent, representative and/or servant  
11 of Defendant COUNTY, and is sued in their individual capacity.

12           16. On information and belief, at all relevant times, the individually named  
13 defendant deputies and DOES 1 through 10, inclusive, were residents of Sonoma  
14 County, California.

15           17. The true names of Defendants DOES 1 through 10, inclusive, are  
16 unknown to Plaintiffs, who therefore sue these Defendants by such fictitious names.  
17 Plaintiffs will seek leave to amend this Complaint to show the true names and  
18 capacities of these Defendants when they have been ascertained. Each of the  
19 fictitious named Defendants is responsible in some manner for the conduct and  
20 liabilities alleged herein.

21           18. Each of the Defendants caused and is responsible for the unlawful  
22 conduct and resulting by, inter alia, personally participating in the conduct, or acting  
23 jointly and in concert with others who did so; by authorizing, acquiescing or failing  
24 to take action to prevent the unlawful conduct; by promulgating policies and  
25 procedures pursuant to which the unlawful conduct occurred; by failing and refusing,  
26 with deliberate indifference to Plaintiffs' and decedent's rights, to initiate and  
27 maintain adequate supervision and/or training; and, by ratifying the unlawful conduct  
28

1 that occurred by agents and peace officers under their direction and control.  
 2 Whenever and wherever reference is made in this Complaint to any act by a  
 3 Defendant, such allegation and reference shall also be deemed to mean the acts and  
 4 failures to act of each Defendant individually, jointly and severally. They are sued in  
 5 their individual and official capacities and in some manner are responsible for the  
 6 acts and omissions alleged herein. Plaintiffs will ask leave of this Court to amend this  
 7 Complaint to allege such name and responsibility when that information is  
 8 ascertained. Each of the Defendants is the agent of the other.

### 9 **JURISDICTION AND VENUE**

10 19. This civil action is brought for the redress of alleged deprivations of  
 11 constitutional rights as protected by 42 U.S.C. § 1983, the First, Second, Fourth and  
 12 Fourteenth Amendments of the United States Constitution. Jurisdiction is founded on  
 13 28 U.S.C. §§ 1331, 1343, and 1367.

14 20. Venue is proper in this Court under 28 U.S.C. § 1391(b), because  
 15 Defendants reside in, and all incidents, events, and occurrences giving rise to this  
 16 action occurred in the COUNTY OF SONOMA, California, which is in the  
 17 geographic and legal jurisdiction of this court.

18 21. With respect to Plaintiffs' supplemental state claims, Plaintiffs request  
 19 that this court exercise supplemental jurisdiction over such claims as they arise from  
 20 the same facts and circumstances which underlie the federal claims.

### 21 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

22 22. Plaintiffs reallege and incorporate the foregoing paragraphs as if set  
 23 forth herein.

24 23. On May 17, 2014, at approximately 8:00 a.m., Glenn Swindell was  
 25 pronounced dead in the attic of his home after a full-scale militarized assault of his  
 26 home by Sonoma County Sheriff's Office Deputies and tactical force personnel in  
 27 response to a minor service call.  
 28

1           24. On the evening of May 16, 2014, Glenn and Sarah had an argument  
2 while driving home from a work function. Upon arriving home, Glenn and his two  
3 children entered their home as Sarah delayed in exiting the vehicle. Glenn locked the  
4 front door. The argument continued as Sarah stood outside the front door.

5           25. Sarah called 911 and calmly reported the incident, requesting assistance  
6 in getting her children. Sarah denied any violence had occurred that evening when  
7 questioned by the dispatcher, as none had occurred. A patrol unit operated by Sheriff  
8 Deputies was dispatched to the Swindell home. When questioned, Sarah made it  
9 unequivocally clear that the incident was nonviolent and that she wanted to get  
10 assistance in getting her children.

11           26. Upon the patrol unit arriving at the Swindell home, Sarah reiterated the  
12 preceding facts to the responding Sheriff Deputies and again requested assistance in  
13 getting her children.

14           27. The responding Sheriff Deputies proceeded to make contact with Glenn  
15 through the locked front door. The Sheriff Deputies discussed the circumstances  
16 with Glenn. In response, and in compliance with the deputies requests, Glenn  
17 directed his children out of the home to be with their mother. Glenn remained in the  
18 house.

19           28. Glenn continued to answer the Sheriff Deputies' questions through the  
20 locked front door. During the questioning by the Sheriff Deputies, Glenn demanded  
21 that the Deputies identify themselves, and asked that they leave and stop harassing  
22 him. Glenn expressed his fear of police to the Sheriff Deputies, and confided that he  
23 was afraid that they would shoot him as they shot the 13-year-old boy, Andy Lopez.

24           29. The Sheriff Deputies and their supervisors learned that Glenn was the  
25 lawful owner of two firearms which were kept in safes. The Sheriff Deputies and  
26 their supervisors searched Glenn's Facebook page and falsely reported to the other  
27  
28



1 deputies that Glenn “was making anti law [enforcement] hate style verbage [sic] and  
2 statements. ...over the last couple of days.”

3 30. Angered and frustrated by Glenn’s assertion of his rights, the Sheriff  
4 Deputies and their supervisors undertook a deliberate and intentional plan to  
5 wrongfully and unlawfully punish Glenn for asserting his rights not to let them into  
6 his home or to talk to them. The Sheriff Deputies and their supervisors threatened  
7 Glenn that if he refused to talk to them, they would arrest him. The Sheriff Deputies  
8 and their supervisors proceeded to wrongfully and negligently declare Glenn a  
9 “barricaded suspect” so as to be able to punish him for his insistence that the deputies  
10 leave, for his unwillingness to open the door, and for asserting his rights.

11 31. In violation of Glenn Swindell’s First Amendment Rights, Second  
12 Amendment Rights, Fourth Amendment Rights, and Due Process Rights afforded  
13 under the Fourteenth Amendment, the Sheriff Deputies and their supervisors  
14 undertook a deliberate and intentional course of conduct which resulted in Glenn  
15 Swindell’s death. The Sheriff Deputies and their supervisors wrongfully and/or  
16 negligently declared Glenn to be barricaded and undertook a siege of the Swindell  
17 home. The Sheriff Deputies and their supervisors fabricated evidence and lied about  
18 the circumstances related to the incident, including in seeking a search and arrest  
19 warrant. These lies and fabrications include:

- 20 a) That Glenn Swindell had committed a battery upon Sarah
- 21 Swindell;
- 22 b) That Glenn Swindell had imprisoned Sarah Swindell;
- 23 c) That Sarah Swindell felt fearful and intimidated by Glenn
- 24 Swindell’s actions,
- 25 d) That Glenn Swindell had barricaded himself in his home;
- 26 e) That Glenn Swindell had cut off communications with Sheriff
- 27 personnel whom were present at his home and property;
- 28



1 f) That Glenn Swindell had used his firearms in committing a  
2 felony; and

3 g) That Glenn Swindell had committed a public offense.

4 32. The Sheriff Deputies and their supervisors wrongfully, negligently and  
5 maliciously summoned the Sonoma County Sheriff's Office SWAT. The SWAT unit,  
6 in concert with the Sheriff Deputies and their supervisors, undertook a further siege  
7 of the Swindell home and property. They learned that Glenn Swindell was afraid of  
8 police, that he was not suicidal and that he had not committed any crime for which a  
9 full-scale militarized assault of the Swindell home was warranted. Despite this the  
10 SWAT unit, in concert with the Sheriff Deputies and their supervisors, undertook  
11 plans for such an assault and carried out such plans. They knew or should have  
12 known that the ultimate outcome of such a violent confrontation would be that Glenn  
13 would be seriously injured or killed.

14 33. During the evening, Sarah approached the Sheriff Deputies and their  
15 supervisors. Sarah requested that the situation be deescalated and expressed her  
16 concerns. The Sheriff Deputies and their supervisors wrongfully and/or negligently  
17 coerced and threatened Sarah to take her children from her if she failed to cooperate  
18 with them.

19 34. The personnel accompanying the SWAT unit and the Sheriff Deputies  
20 and their supervisors numbered more than 50 peace officers all of whom were present  
21 at the Swindell home and property. This great militarized police force utilized  
22 military equipment, including a military assault vehicle, concussion bombs, and  
23 chemical agents to break down the garage door of the Swindell home and wrongfully  
24 enter the Swindell home causing damage to the garage, home and contents therein.

25 35. Upon gaining this unauthorized, unwarranted and reckless entry of the  
26 Swindell home, the SWAT unit learned that Glenn sought refuge in attic of the home.  
27 They learned that Glenn had a great fear of police and feared that they would kill  
28

1 him. In response, the Sheriff Deputies and their supervisors deemed Glenn to be an  
2 “extremely paranoid” suspect.

3 36. At no time relevant hereto did Glenn commit any crime, make any  
4 threats against personnel from either the Sheriff’s Office or the accompanying  
5 tactical force units, or make any statements or commit any actions which indicated  
6 that it was his intent to harm members of the tactical force units or the Sheriff’s  
7 Office or anyone else. There was no need to arrest him nor did there exist any other  
8 emergency or exigent circumstances which required the defendants to enter his house  
9 or attic, or to arrest Glenn. Yet, through the concerted efforts of the Sheriff Deputies,  
10 their supervisors and the responding SWAT units, a full-scale militarized assault  
11 ensued upon Glenn Swindell’s home.

12 37. The Sheriff Deputies, their supervisors and the responding SWAT, HNT  
13 and EOD units knew that Glenn was trapped in a confined attic and that he had no  
14 means of escape. They knew or should have known that there was no pressing danger  
15 or urgency which required them to enter the attic. They knew that Glenn would  
16 eventually exit the attic and that they could and would take him into custody safely.  
17 They knew that all they had to do was wait. Time was not “of the essence” as there  
18 was no pending or developing risk to life. There was no reasonable need to use  
19 Oleoresin Capsicum (hereafter OC gas or pepper spray) or tear gas or any other  
20 chemical agent, as there was no reasonable basis to enter Glenn’s house or attic.

21 38. Despite this, they formulated a plan for a tactical assault upon Glenn’s  
22 attic. They knew that the door to the attic had been locked and/or sealed shut by  
23 Glenn. As a result of their wrongful search of the house, they learned that Glenn may  
24 have armed himself.

25 39. Despite this, the SWAT unit and other Sheriff’s Office personnel used a  
26 military-style assault vehicle to puncture a hole in the attic and they then proceeded  
27 to pump OC gas and tear gas into the confined attic quarters.  
28

1           40. They knew and intended that such tactics would cause Glenn to suffer  
2 great physical and emotional pain and suffering. They knew or should have known  
3 that the effect of the concentrated OC and tear gas, under the confined circumstances,  
4 would immobilize Glenn and kill him in an agonizing and painful way as the effects  
5 of this gas cocktail took effect.

6           41. They knew that these effects would include eye pain, a burning  
7 sensation in the throat and nose, increased nasal secretions, chest tightness, sneezing,  
8 coughing, retching, ocular pain, watering and blurred vision, nasal pain, irritation and  
9 sneezing, oral pain, ulceration, excessive salivation, throat irritation, burning and  
10 pain, respiratory pain, shortness of breath, chest tightness, uncontrollable coughing  
11 and wheezing, gastrointestinal pain, discomfort and retching, a loss of consciousness,  
12 and skin peeling or rash. They knew that because of the tight and closed quarters  
13 Glenn sought refuge in and because of the great fear he expressed of the police, he  
14 would likely die from the effects of the gas cocktail.

15           42. In fact, one of the SWAT supervisors declared his intent to kill Glenn  
16 upon arriving at the location by exclaiming, "Why don't you just kill the fucker!"

17           43. The Sheriff Deputies, their supervisors and the responding SWAT unit  
18 proceeded to carry out their plan to kill Glenn by pumping the OS and tear gas  
19 cocktail into the close-quartered attic knowing that the gases would kill him or that  
20 he would kill himself as a result of the extreme pain and anguish that the gases would  
21 cause. The expected effects of the gases immediately came to fruition once they were  
22 pumped into the attic. Because Glenn suffered great and unbearable physical and  
23 mental anguish from the gases and because he was unable to leave the attic which  
24 soon became a gas chamber, he took his own life with a single gunshot to his head.  
25 The Sheriff's Office end goal that Glenn would not be bothering anyone was  
26 unfortunately achieved.

1           44. Glenn Swindell was a hard working and dedicated husband, father and  
2 son. Glenn's wife, children and mother, the present Plaintiffs, enjoyed a strong and  
3 meaningful relationship with Glenn that was full of love.

4                                   **FIRST CLAIM FOR RELIEF**  
5                                   **Unreasonable Search and Seizure**  
6                                   **42 U.S.C. § 1983**

7                                   **Against DOE Defendants 1 through 10**

8           45. Plaintiff Estate of Glenn Swindell realleges and incorporates the  
9 foregoing paragraphs as if set forth herein

10          46. Defendants' actions described herein violated Glenn Swindell's rights  
11 under the Fourth Amendment to the United States Constitution incorporated and  
12 made applicable to states and municipalities by the Due Process Clause of the  
13 Fourteenth Amendment, by subjecting Glenn Swindell to unreasonable searches and  
14 seizures of his person and home.

15          47. At the time of Glenn Swindell's death, he was not engaging in, nor had  
16 he engaged in, any assaultive or threatening conduct. Under the totality of the  
17 relevant circumstances that existed, he posed no danger or threat to the Sheriff  
18 Deputies, their supervisor, the responding SWAT units, or anyone else. The full-scale  
19 militarized assault of the Swindell home, including the unauthorized, unwarranted  
20 and reckless entry into the Swindell home, the deployment of concussion bombs and  
21 the pumping of numerous rounds of CS and OC chemical agents into the confined  
22 attic quarters where Glenn Swindell sought refuge, recklessly created an  
23 unconstitutional provocation leading to the death of Glenn Swindell. Such conduct  
24 was unreasonable under the circumstances in every respect and was undertaken  
25 intentionally and recklessly by the Sheriff Deputies, their supervisors and the  
26 responding SWAT unit.

1           48. These actions violated Glenn Swindell's right to be free from  
2 unreasonable searches and seizures as guaranteed under the Fourth Amendment to  
3 the United States Constitution.

4           49. During the deployment of the concussion bombs and the numerous  
5 rounds of OC and CS gas into the confined attic quarters, Glenn Swindell endured  
6 great physical and emotional pain and suffering.

7           50. The actions of said defendants also caused meaningful and significant  
8 damage to Glenn Swindell's home, furnishings and other possessions contained  
9 therein.

10           51. Defendants' conduct violated clearly established constitutional or other  
11 rights, of which Defendants knew, or of which reasonable public officials should  
12 have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. § 1983.

13           52. The unauthorized, unwarranted and reckless entry into Glenn Swindell's  
14 home, the deployment of concussion bombs and numerous rounds of toxic gases, and  
15 the prolonged full-scale militarized assault of the Swindell home was willful and  
16 done with a deliberate disregard for the rights and safety of Glenn Swindell, and  
17 therefore warrants the imposition of punitive damages as to the Sheriff Deputies,  
18 their supervisors and responding SWAT units.

19           53. Accordingly, Defendants DOES 1 through 10 are liable to Plaintiffs for  
20 compensatory damages pursuant to 42 U.S.C. § 1983.

21   **SECOND CLAIM FOR RELIEF**

22   **Violation of Substantive Due Process Rights**

23   **42 U.S.C. § 1983**

24   **Against DOE Defendants 1 through 10**

25           54. Plaintiff ESTATE OF GLENN SWINDELL realleges and incorporates  
26 the foregoing paragraphs as if set forth herein.

1           55. The present claim is brought pursuant to 42 U.S.C. § 1983, for violation  
2 of GLENN SWINDELL's substantive due process rights guaranteed by the  
3 Fourteenth Amendment of the United States Constitution.

4           56. Defendants' actions described herein violated Glenn Swindell's rights  
5 under the Fourteenth Amendment to the United States Constitution by subjecting  
6 Glenn Swindell to conduct and circumstances which shock the conscience and  
7 exceed the norms of human decency.

8           57. The full-scale militarized assault of the Swindell home, including the  
9 unauthorized, unwarranted and reckless entry into the Swindell home, the  
10 deployment of concussion bombs and the pumping of numerous rounds of CS and  
11 OC chemical agents into the confined attic quarters where Glenn Swindell sought  
12 refuge, recklessly created an unconstitutional provocation leading to the death of  
13 Glenn Swindell. Such conduct was unreasonable under the circumstances in every  
14 respect and was undertaken intentionally by the Sheriff Deputies, their supervisors  
15 and the responding SWAT unit. They deliberately created a gas chamber  
16 environment in the confined and enclosed attic, knowing that GLENN SWINDELL  
17 would suffer unbearable and tortuous pain, discomfort and suffering that would kill  
18 him. Because he was trapped in these unbearable conditions he took his own life to  
19 avoid the unbearable pain and suffering. Previous to this, he had an extended  
20 conversation with his mother while in the attic. He spoke of his fear of the police and  
21 expressed his love for her and his family and made it clear that he was not suicidal.

22           58. The actions of the present defendants violated Glenn Swindell's rights  
23 under the Fourteenth Amendment to be free from deliberate governmental conduct  
24 which shocks the conscience and which exceeds recognized norms of human  
25 decency.

26           59. During the deployment of the concussion bombs and the numerous  
27 rounds of OC and CS gas into the confined attic quarters, Glenn Swindell endured  
28

1 great physical and emotional pain and suffering, and such pain and suffering was the  
2 direct and proximate cause of his death at his own hands.

3 60. Defendants' conduct violated clearly established constitutional or other  
4 rights, of which Defendants knew, or of which reasonable public officials should  
5 have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. § 1983.

6 61. The unauthorized, unwarranted and reckless entry into Glenn Swindell's  
7 home, the deployment of concussion bombs and numerous rounds of toxic gases, and  
8 the prolonged full-scale militarized assault of the Swindell home was willful and  
9 done with a deliberate disregard for the rights and safety of Glenn Swindell, and  
10 therefore warrants the imposition of punitive damages as to Defendants DOES 1  
11 through 10, consisting of the Sheriff Deputies, their supervisors and responding  
12 SWAT units.

13 62. Accordingly, Defendants DOES 1 through 10 are liable to Plaintiffs for  
14 compensatory damages pursuant to 42 U.S.C. § 1983.

15 **THIRD CLAIM FOR RELIEF**

16 **Freedom of Speech and Expression Violation**

17 **42 U.S.C. § 1983**

18 **Against DOE Defendants 1 through 10**

19 63. Plaintiff Estate of Glenn Swindell realleges and incorporates the  
20 foregoing paragraphs as if set forth herein.

21 64. Defendants' actions described herein violated Glenn Swindell rights  
22 under the First Amendment to the United States Constitution incorporated and made  
23 applicable to states and municipalities by the Due Process Clause of the Fourteenth  
24 Amendment, by prohibiting Glenn Swindell from exercising his constitutional right  
25 to free speech and expression, and by retaliating against Glenn Swindell for  
26 exercising those same rights.



65. The present Plaintiff believes, and hereby alleges, that the violation of Glenn Swindell's First Amendment rights occurred pursuant to a custom or practice maintained by the Sheriff's Office and the COUNTY OF SONOMA, of retaliating against private citizens who exercise their First Amendment rights by voicing their opinions pertaining to the militarization of police.

66. Defendants' conduct violated clearly established constitutional or other rights, of which Defendants knew, or of which reasonable public officials should have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. § 1983.

67. Accordingly, Defendants DOES 1 through 10 are liable to Plaintiffs for compensatory damages pursuant to 42 U.S.C. § 1983.

#### **FOURTH CLAIM FOR RELIEF**

##### **Right to Keep and Bear Arms Violation**

##### **42 U.S.C. § 1983**

##### **Against DOE Defendants 1 through 10**

68. Plaintiff Estate of Glenn Swindell realleges and incorporates the foregoing paragraphs as if set forth herein.

69. Defendants' actions described herein violated Glenn Swindell's rights under the Second Amendment to the United States Constitution incorporated and made applicable to states and municipalities by the Due Process Clause of the Fourteenth Amendment, by retaliating against Glenn Swindell for exercising his constitutional right to keep and bear arms in his home for the purpose self-defense.

70. The present Plaintiff believes, and herein alleges, that the violation of Glenn Swindell's Second Amendment rights occurred pursuant to a policy, custom, or practice, maintained by the Sheriff's Office and the COUNTY OF SONOMA, of retaliating against private citizens who exercised their Second Amendment rights to keep and bear arms in their homes for the purpose self-defense.



1 proper training in the handling of such calls. The Defendants knew that such  
2 untrained deputies would escalate minor services calls by creating violent  
3 confrontations leading to injury or death.

4 76. By reason of the aforementioned custom and practice, Glenn Swindell  
5 was severely injured and subjected to pain and suffering which ultimately led to his  
6 death.

7 77. Defendants COUNTY OF SONOMA and DOES 1 through 10 had  
8 either actual or constructive knowledge of the deficient practice and custom alleged  
9 in the paragraphs above. Despite having knowledge as stated above these defendants  
10 condoned, tolerated and through actions and inactions thereby ratified such custom  
11 and practice. Said defendants also acted with deliberate indifference to the  
12 foreseeable effects and consequences of these customs and practices with respect to  
13 the constitutional rights of decedent, Plaintiffs, and other individuals similarly  
14 situated.

15 78. As a further example to contemptuous disregard for the rights of the  
16 citizens of Sonoma County, there exists an insidious custom and practice within the  
17 Sonoma County Sheriff's department of interrogating the family members of persons  
18 they have killed and extracting from them through lies and subterfuge information  
19 which would be only helpful to the defense of a civil case. This custom and practice  
20 was utilized in the present case where deputies and/or detectives of the Sonoma  
21 County Sheriff's office interrogated Sarah Swindell at length as to her relationship  
22 with her husband while withholding from her that they had killed him.

23 79. These practices and customs implemented and maintained and still  
24 tolerated by Defendant COUNTY OF SONOMA were affirmatively linked to and  
25 were a significantly influential force behind the injuries of decedent and Plaintiffs.

1           80. By reason of the aforementioned acts and omissions, Glenn Swindell  
2 lost his life and his wife, children and mother, the present Plaintiffs, suffered the loss  
3 of his love, affection, society and moral support.

4           81. Accordingly, Defendants COUNTY OF SONOMA and DOES 1  
5 through 10 are liable to Plaintiffs for compensatory damages pursuant to 42 U.S.C. §  
6 1983.

7                                   **SIXTH CLAIM FOR RELIEF**  
8                                   **Interference with Familial Integrity**  
9                                   **Substantive Due Process Violation**  
10                                  **42 U.S.C. § 1983**

11           **Against Defendants COUNTY OF SONOMA and DOES 1 through 10**

12           82. Plaintiffs SARAH SWINDELL, individually; DEBORAH BELKA,  
13 individually; G.S., a minor, by and through Sarah Swindell as Guardian ad Litem;  
14 M.S., a minor, by and through Sarah Swindell, as Guardian ad Litem, J.S., a minor,  
15 by and through Deann Macias, and TYLER SWINDELL, individually, reallege and  
16 incorporate the foregoing paragraphs as if set forth herein.

17           83. The present claim is brought pursuant to 42 U.S.C. § 1983, for violation  
18 of the right of familial integrity guaranteed by the Fourteenth Amendment of the  
19 United States Constitution.

20           84. As alleged above, the Sheriff's Deputies, their supervisors and the  
21 accompanying SWAT unit wrongfully and/or negligently coerced and threatened  
22 Glenn Swindell with arrest and removal of his children from the home if he did not  
23 answer their questions, and further wrongfully and/or negligently coerced and  
24 threatened Sarah Swindell with removal of her children if she refused to cooperate  
25 during the siege.

26           85. As alleged above, the Sheriff's Deputies, their supervisors and the  
27 accompanying SWAT unit gained the unauthorized, unwarranted and reckless entry  
28

1 into Glenn Swindell's home, deployed numerous concussion bombs, and pumped  
2 numerous rounds of CS and OC chemical agents into the confined attic quarters  
3 where Glenn Swindell sought refuge. These deliberate, callous and reckless actions  
4 unconstitutionally provoked the death of Glenn Swindell. As such, these acts  
5 violated the constitutional limits on the use of a militarized police force, that is, the  
6 Fourth Amendment's limits on unreasonable searches and seizures.

7 86. At the same time, these acts undertaken by the Sheriff Deputies, their  
8 supervisors and the accompanying SWAT unit violated the rights of Plaintiffs  
9 SARAH SWINDELL, individually, DEBORAH BELKA, individually, G.S., a  
10 minor, M.S., a minor, individually and as successors in interest to decedent GLENN  
11 SWINDELL, by and through their Guardian Ad Litem, SARAH SWINDELL,  
12 JOSHUA SWINDELL, individually, and TYLER SWINDELL, individually, to be  
13 free from police interference in their relationship with Glenn Swindell.

14 87. The unreasonable conduct of the involved Sheriff Deputies, their  
15 supervisors and the accompanying SWAT unit was the direct and proximate cause of  
16 the death of Glenn Swindell. As a result of the unreasonable conduct of these  
17 Defendants, Plaintiffs lost Glenn Swindell, as well as his love, affection, society and  
18 moral support.

19 88. The unreasonable conduct of these Defendants was willful and done  
20 with a deliberate disregard for the rights and safety of Glenn Swindell and the present  
21 Plaintiffs and therefore warrants the imposition of punitive damages as to the  
22 involved Sheriff personnel, including the responding Sheriff Deputies, their  
23 supervisors and the members of the accompanying SWAT unit.

24 89. The unreasonable conduct of these Defendants was willful and done  
25 with a deliberate disregard for the rights of Plaintiffs and therefore warrants the  
26 imposition of punitive damages as to the involved Sheriff personnel, including the  
27  
28

1 responding Sheriff Deputies, their supervisors and the members of the accompanying  
2 SWAT unit.

3 90. Accordingly, Defendants COUNTY OF SONOMA and DOES 1  
4 through 10 are liable to Plaintiffs for compensatory damages pursuant to 42 U.S.C. §  
5 1983.

6 **SEVENTH CLAIM FOR RELIEF**

7 **Unreasonable Search and Seizure**

8 **42 U.S.C. § 1983**

9 **Against DOE Defendants 1 through 10**

10 91. Plaintiff Sarah Swindell realleges and incorporates paragraphs 1 through  
11 44 as if set forth herein

12 92. Defendants' actions described herein violated Sarah Swindell's rights  
13 under the Fourth Amendment to the United States Constitution incorporated and  
14 made applicable to states and municipalities by the Due Process Clause of the  
15 Fourteenth Amendment, by subjecting Sarah Swindell to unreasonable searches of  
16 her home and seizures of her person.

17 93. The full-scale militarized assault of the Swindell home, including the  
18 unauthorized, unwarranted and reckless entry into the Swindell home, the  
19 deployment of concussion bombs and the pumping of numerous rounds of CS and  
20 OC chemical agents into the house constituted a violation of the Fourth  
21 Amendment's restrictions against unreasonable searches. Such conduct was  
22 unreasonable under the circumstances in every respect and was undertaken  
23 intentionally and recklessly by the Sheriff Deputies, their supervisors and the  
24 responding SWAT unit.

25 94. These actions violated Sarah Swindell's right to be free from  
26 unreasonable searches and seizures as guaranteed under the Fourth Amendment to  
27 the United States Constitution.  
28

1           95. During the siege upon her home, Sarah Swindell was wrongfully and  
2 unlawfully taken into custody by defendants DOES 1 through 10. She was  
3 concerned that the incident was growing out of control and that the defendants here  
4 were overzealously creating circumstances that were not warranted. She voiced her  
5 concerns. As a result, she was not permitted to see her children and they were taken  
6 into a portable control post where she could hear them crying. She was threatened  
7 with having her children taken from her by the state if she refused to cooperate with  
8 them. Fearing for her own safety and the safety of her children, she cooperated with  
9 the officers and remained at the location and stayed quite as ordered by the  
10 defendants.

11           96. The actions of said defendants also caused meaningful and significant  
12 damage to Glenn Swindell's home, furnishings and other possessions contained  
13 therein.

14           97. Defendants' conduct violated clearly established constitutional or other  
15 rights, of which Defendants knew, or of which reasonable public officials should  
16 have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. § 1983.

17           98. The unauthorized, unwarranted and reckless entry into Sarah Swindell's  
18 home, the deployment of concussion bombs and numerous rounds of toxic gases, and  
19 the prolonged full-scale militarized assault of the Swindell home was willful and  
20 done with a deliberate disregard for the rights of Sarah Swindell, and therefore  
21 warrants the imposition of punitive damages as to the Sheriff Deputies, their  
22 supervisors and responding SWAT units.

23           99. Accordingly, Defendants DOES 1 through 10 are liable to Plaintiffs for  
24 compensatory damages pursuant to 42 U.S.C. § 1983.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs requests entry of judgment in their favor and against Defendants as follows:

- A. For compensatory damages, including pre-death pain and suffering damages, general damages and special damages, and statutory damages for violation of the laws and Constitution of the United States in an amount to be determined at trial;
- B. For punitive damages against Defendants DOES 1 through 10 pursuant to 42 U.S.C. § 1983 and any other applicable laws or status, in an amount sufficient to deter and make an example of each non-government entity Defendant;
- C. For prejudgment interest to be determined at trial;
- D. For reasonable costs of this suit and attorneys' fees, including attorneys' fees pursuant to 42 U.S.C. § 1988; and
- E. For such further other relief as the Court may deem just, proper, and appropriate.

Respectfully Submitted,

Dated: February 27, 2015

CASILLAS, MORENO & ASSOCIATES

By \_\_\_/s/ Arnolando Casillas \_\_\_\_\_

ARNOLDO CASILLAS

DENISSE O. GASTÉLUM

Attorneys for Plaintiffs,

ESTATE OF GLENN SWINDELL, G.S.,

M.S., J.S., TYLER SWINDELL, and DEBORAH  
BELKA

1 Dated: February 27, 2015

JONATHAN D. MELROD, ESQ., SBN

2 By: \_\_\_\_/s/ Jonathan D. Melrod \_\_\_\_\_

3 JONATHAN D. MELROD

4 Attorney for Plaintiff,

5 SARAH SWINDELL

**DEMAND FOR JURY TRIAL**

COME NOW Plaintiffs ESTATE OF GLENN SWINDELL, by and through successors in interest; SARAH SWINDELL, individually and as successor in interest; G.S., a minor, individually and as successor in interest, by and through Sarah Swindell as Guardian ad Litem; M.S., a minor, individually and as successor in interest, by and through Sarah Swindell, as Guardian ad Litem; J.S., a minor, individually and as successor in interest, by and through Deann Macias, as Guardian ad Litem, DEBORAH BELKA, individually and as successor in interest and TYLER SWINDELL, individually and as successor in interest and hereby demand for a trial by jury.

Dated: February 27, 2015

CASILLAS, MORENO & ASSOCIATES

By \_\_\_\_/s/ Arnolando Casillas \_\_\_\_\_

ARNOLDO CASILLAS

DENISSE O. GASTÉLUM

Attorneys for Plaintiffs,

ESTATE OF GLENN SWINDELL, G.S.,

M.S., J.S., TYLER SWINDELL, and DEBORAH  
BELKA

Dated: February 27, 2015

JONATHAN D. MELROD, ESQ., SBN

By: \_\_\_\_/s/ Jonathan D. Melrod \_\_\_\_\_

JONATHAN D. MELROD

Attorney for Plaintiff,

SARAH SWINDELL